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is the aggregate oil capacity of the ITB combination.

(d) This subpart does not apply to the following types of vessels—

(1) Public vessels;

(2) Foreign-flag vessels engaged in innocent passage through the territorial sea or transit passage through a strait used for international navigation, unless bound for or departing from a port or place of the United States;

(3) Vessels that carry oil as a primary cargo and are required to submit a vessel response plan (VRP) in accordance with 33 CFR part 155, subpart D;

(4) Vessels constructed or operated in such a manner that no oil in any form can be carried onboard as fuel for propulsion or cargo;

(5) Permanently moored craft; and

(6) Inactive vessels.

Note to §155.5015: VRP requirements for tank vessels are found in subpart D of this part.

§ 155.5020 Definitions.

Except as otherwise defined in this section, the definitions in §§155.110 and 155.1020 apply to this subpart. For the purposes of this subpart only, the term—

Cargo means oil, not carried as fuel, which is carried in bulk, and that is transported to and off-loaded at a port or place by a vessel. It does not include—

(1) Oil carried in integral tanks, marine portable tanks, or independent tanks for use by machinery, helicopters, and boats carried onboard the vessel, or for use by helicopters that are directly supporting the vessel's primary operations;

(2) Oil transferred from a towing vessel to a vessel in its tow to operate installed machinery other than the propulsion plant; or

(3) Oil recovered during oil spill response operations.

Contract or other approved means includes—

(1) A written contractual agreement between a vessel owner or operator and a required response resource provider. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the applicable Captain of the

Port (COTP) zone or specified geographic areas;

(2) Certification by the vessel owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the vessel owner or operator, and are available within stipulated response times in the applicable COTP zone or specified geographic areas;

(3) Active membership with a local or regional required response resource provider that has identified specific personnel and equipment required under this subpart that are available to respond to a discharge within stipulated response times in the COTP zone or specified geographic areas;

(4) A document that—

(i) Identifies the personnel, equipment, and services capable of being provided by the required response resource provider within stipulated response times in the COTP zone or specified geographic areas;

(ii) Sets out the parties' acknowledgment that the required response resource provider intends to commit the resources in the event of a response;

(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and exercises; and

(iv) Is referenced in the vessel response plan; or

(5) With the written consent of the required response resource provider, the identification of a required response resource provider with specified equipment and personnel that are available within stipulated response times in the COTP zone, port area, or specified geographic area. This paragraph is "other approved means" for only—

(i) Nontank vessels with a fuel and cargo oil capacity of less than 250 barrels for maximum most probable discharge oil spill removal response resource requirements per 33 CFR 155.5050(e);

(ii) Nontank vessels that carry group I through group IV petroleum oils as fuel or cargo with a capacity of 250 barrels or greater, but less than 2,500 barrels, for salvage, emergency lightering, and marine firefighting response resources per 33 CFR 155.5050(i)(2);

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(iii) Nontank vessels that carry group I through group IV petroleum oils as fuel or cargo with a capacity less than 250 barrels for salvage response resources in 33 CFR 155.5050(i)(3);

(iv) Nontank vessels that carry group II through group IV petroleum oils as fuel or cargo with a capacity of 250 barrels or greater, but less than 2,500 barrels, for dispersant response resources per 33 CFR 155.5035(i)(7) and 33 CFR 155.5050(j); and

(v) Nontank vessels that carry groups I through IV petroleum oils as fuel or cargo with a capacity of 250 barrels or greater, but less than 2,500 barrels, for aerial oil spill tracking to support oil spill assessment and cleanup activities per 33 CFR 155.5050(k).

Fuel means all oils of any kind, which may be used to supply power or lubrication for primary or auxiliary purposes onboard the vessel in which it is carried.

Inactive vessel means a vessel that is out of service or laid up and has emptied its tanks of fuel except for the minimum amount of fuel necessary for the maintenance of the vessel's material condition. Such a vessel is considered not to be operating on the navigable waters of the United States for the purposes of 33 U.S.C. 1321(j)(5), unless the cognizant COTP determines that it poses an unacceptable risk to the marine environment due to the amount of oil carried for maintenance. A vessel would not be considered inactive if it carried oil as a cargo or cargo residue.

Integrated Tug Barge or *ITB* means any tug barge combination in which a specially designed propulsion unit (tug) is mated to a cargo unit (barge) of a compatible special design or where a propulsion unit (tug) is mated to a cargo unit (barge) with a specially designed connection system such that the combined unit has operating characteristics and seakeeping capabilities that exceed, under all anticipated weather conditions, those of a tug and barge, where the tug is secured in the barge notch or on fenders by means such as wire rope, chains, lines, or other tackle now commonly used in offshore towing.

Maximum most probable discharge or *MMPD* means a discharge of—

(1) Two thousand five hundred (2,500) barrels of oil, for vessels with a fuel and cargo capacity equal to or greater than 25,000 barrels; or

(2) Ten percent of the vessel's fuel and cargo capacity, for vessels with a fuel and cargo capacity of less than 25,000 barrels.

Navigable waters of the United States means navigable waters of the United States as defined in 33 CFR 2.36(b)(1), including the waters in 46 U.S.C. 2101(17a).

Nontank vessel means a vessel meeting the description provided in 33 CFR 155.5015(a).

Oil spill removal organization or *OSRO* means any person or persons who own(s) or otherwise control(s) oil spill removal resources that are designed for, or are capable of, removing oil from the water or shoreline. Control of such resources through means other than ownership includes leasing or subcontracting of equipment or, in the case of trained personnel, by having contracts, evidence of employment, or consulting agreements. OSROs provide response equipment and services, individually or in combination with subcontractors or associated contractors, under contract or other approved means, directly to a vessel owner or operator of a vessel or a facility required to have a response plan under 33 U.S.C. 1321(j)(5). OSROs are able to mobilize and deploy equipment or trained personnel and remove, store, and transfer recovered oil. Persons such as sales and marketing organizations (e.g., distributorships and manufacturer's representatives) that warehouse or store equipment for sale are not OSROs.

P&I Club means a protection and indemnity insurance group that provides liability insurance cover for the vessel owner or operator that would respond to an oil discharge or substantial threat of such a discharge by the vessel.

Permanently moored craft means a watercraft that is not considered to be a vessel under the rule of construction in 1 U.S.C. 3, because it is not practically (as opposed to theoretically) used or capable of being used as a means of transportation on the water.

Public vessel means a vessel owned or bareboat-chartered and operated by the

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United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

Qualified individual or *QI* and *alternate qualified individual* means a shore-based representative of a vessel owner or operator who meets the requirements of 33 CFR 155.5026.

Substantial threat of such a discharge means any incident involving a vessel that may create a significant risk of discharge of fuel or cargo oil. Such incidents include, but are not limited to, groundings, allisions, strandings, collisions, hull damage, fires, explosions, loss of propulsion, floodings, on-deck spills, or other similar occurrences.

Tier means the combination of required response resources and the times within which the resources must arrive on scene. Appendix B of this part, especially Tables 5 and 6, provide specific guidance on calculating the response resources required by a respective tier. Section 155.5050(g) sets forth the required times within which the response resources must arrive on scene. Tiers are applied to three categories of areas—

- (1) Higher volume port areas;
- (2) The Great Lakes; and
- (3) All other operating environments, including rivers and canals, inland, nearshore, offshore, and open ocean areas.

Transfer means any movement of oil to or from a vessel by means of pumping, gravitation, or displacement. A transfer is considered to begin when the person in charge of the transferring vessel or facility and the person in charge of the receiving facility or vessel first meet to begin completing the declaration of inspection required by 33 CFR 156.150. A transfer is considered to be complete when all the connections for the transfer have been uncoupled and secured with blanks or other closure devices and both of the persons in charge have completed the declaration of inspection to include the date and time they complete the transfer.

Worst case discharge or *WCD* means a discharge in adverse weather conditions of a vessel's entire fuel or cargo oil, whichever is greater.

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§ 155.5021 Operating restrictions.

Nontank vessels subject to this subpart may not—

(a) Operate upon the navigable waters of the United States unless in compliance with a vessel response plan (VRP) approved under § 155.5065.

(b) Continue to operate on the navigable waters of the United States if—

(1) The Coast Guard determines that the response resources identified in the vessel's certification statement do not meet the requirements of this subpart;

(2) The contracts or agreements required in §§ 155.5050 and 155.5052 and the vessel's certification statement are no longer valid;

(3) The vessel is not operating in compliance with the submitted VRP; or

(4) The period of the VRP authorization has expired.

§ 155.5023 Interim operating authorization.

(a) Notwithstanding the requirements of § 155.5021 of this subpart, a vessel may continue to operate for up to 2 years after the date of submission of a vessel response plan (VRP) pending approval of that VRP, if the vessel has received written authorization for continued operations from the Coast Guard.

(b) To receive this authorization, the vessel owner or operator must certify in writing with an original or electronic signature to the Coast Guard that the vessel owner or operator has identified and has ensured, by contract or other approved means, the availability of the necessary private response resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from their vessel.

(c) Those nontank vessels temporarily authorized to operate under the provisions provided in this section must comply with 33 CFR 155.1070(c), (d), and (e).

§ 155.5025 One-time port waiver.

(a) If the vessel owner or operator seeks a one-time port waiver, they must certify in writing or using electronic signatures acceptable to the Coast Guard, prior to the vessel's entry